

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE:

**SAUDDY NOEMI HERNANDEZ ONEILL  
JOAN LAUREANO COLON**

Debtor(s)

CASE NO. **19-06674-EAG**

CHAPTER 13

**MOTION TO DISMISS UNDER §1307(c)(6)**

**TO THE HONORABLE COURT:**

Comes now, creditor **POPULAR AUTO LLC**, represented by the undersigned attorney and very respectfully states and prays as follows:

1. On November 14, 2019 debtor(s) herein filed a bankruptcy petition under Chapter 13 of Title 11 of the United States Code.

2. Popular Auto is a creditor in the instant case pursuant to 11 USC §101 and therefore, a party in interest under the instant proceeding.

3. On April 4, 2016, debtor(s) subscribed with appearing creditor Auto Loan Agreement, contract no. 2220 regarding a 2016 Jeep Wrangler.

4. Debtor's(s') Chapter 13 Plan was confirmed on May 7, 2020. Said plan proposes to pay pre-petition arrears through Chapter 13 Trustee and debtor(s) will pay directly to Popular Auto the post-petition payments of the vehicle described in averment number 3.

5. However, debtor(s) has(have) breached the aforementioned plan proposal since, as of today's date, debtor(s) shows four (4) post-petition arrears on monthly installments corresponding to the months of December 2021 through March 2022 for a total amount of \$3,150.80.

6. The situation above explained is effectively causing undue prejudice to Creditor's rights as a holder of a secured claim. Debtor(s) has(have) continued to operate and is at the present

operating the vehicle, consequently causing depreciation in its value, and therefore, jeopardizing Popular Auto's interest over such property.

7. Therefore, according to 11 USC §1307(c)(6) debtor's(s') unreasonable delay which is prejudicial to Popular Auto, is sufficient also cause to warrant the dismissal of debtor's(s') bankruptcy petition.

*“(c) Except as provided in subsection (e) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, for cause, including—  
... (6) material default by the debtor with respect to a term of a confirmed plan.”*

**WHEREFORE**, creditor **POPULAR AUTO LLC**, respectfully requests from this Honorable Court that an order dismissing this case be entered for debtor's(s') failure to comply with the requirements of §1307(c)(6) of the Bankruptcy Code and grant any such other remedy it may deem just and proper.

#### **NOTICE OF RESPONSE TIME**

You are hereby notified of the filing of a **MOTION TO DISMISS** filed by **POPULAR AUTO LLC**, within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the clerk's office of the United States Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the court, the interest of justice requires otherwise.

**I CERTIFY:** I hereby certify that today, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

**ROBERTO FIGUEROA CARRASQUILLO**, Attorney for debtor; to **JOSE RAMON CARRION MORALES**, Chapter 13 Trustee; and I hereby certify that I have mailed by the US Postal Service the document to the following non CM/ECF participant(s): **SAUDDY NOEMI HERNANDEZ ONEILL, JOAN LAUREANO COLON, RR6 BOX 6936, TOA ALTA, PR 00953** and to all non CM/ECF participants interested as per mailing list which is hereby included.

Respectfully submitted in San Juan, Puerto Rico this 10<sup>th</sup> day March 2022.

**Popular Auto LLC**  
Consumer Bankruptcy Department  
PO Box 366818  
San Juan, PR 00936-6818  
Tel. (787)753-7849; Fax (787)751-7827

**/S/ CARLOS E. PEREZ PASTRANA, ESQ.**  
**USDC-208913**  
[carlos.perezpastrana@popular.com](mailto:carlos.perezpastrana@popular.com)

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE:

**SAUDDY NOEMI HERNANDEZ ONEILL  
JOAN LAUREANO COLON**

Debtor(s)

CASE NO. **19-06674-EAG**

CHAPTER 13

**AFFIDAVIT FOR DEFAULT JUDGMENT PURSUANT TO SECTION 201(b)(4)  
OF THE SERVICE MEMBERS CIVIL RELIEF ACT OF 2003**

I, **Carlos E. Pérez Pastrana**, Attorney for the Consumer Bankruptcy Department of Banco Popular of Puerto Rico, declare under penalty of perjury the following:

That according to the enclosed certification, provided by the Department of Defense Manpower Data Center (DMDC), the Debtor is not in active duty or under call to active duty as members of the Army, Navy or Air Forces of the United States of America; the National Guard; the Public Health Service or the National Oceanic and Atmospheric Administration.

In San Juan, Puerto Rico, this 10<sup>th</sup> day of March 2022.

**/S/ CARLOS E. PEREZ PASTRANA, ESQ.**

U.S.D.C. 208913

Attorney for Popular Auto LLC

Consumer Bankruptcy Department

PO Box 366818

San Juan, PR 00936-6818

Tel. (787)753-7849; Fax (787)751-7827

E-mail: [carlos.perezpastrana@popular.com](mailto:carlos.perezpastrana@popular.com)



## Status Report Pursuant to Servicemembers Civil Relief Act

SSN: XXX-XX-7319  
Birth Date:  
Last Name: LAUREANO COLON  
First Name: JOAN  
Middle Name:  
Status As Of: Mar-10-2022  
Certificate ID: H92Z6G4HD4GZJKL

| On Active Duty On Active Duty Status Date   |                      |        |                   |
|---|----------------------|--------|-------------------|
| Active Duty Start Date  | Active Duty End Date | Status | Service Component |
| NA  | NA                   | No     | NA                |
| This response reflects the individuals' active duty status based on the Active Duty Status Date |                      |        |                   |

| Left Active Duty Within 367 Days of Active Duty Status Date   |                      |        |                   |
|---|----------------------|--------|-------------------|
| Active Duty Start Date  | Active Duty End Date | Status | Service Component |
| NA  | NA                   | No     | NA                |
| This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date |                      |        |                   |

| The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date                   |                             |        |                   |
|---|-----------------------------|--------|-------------------|
| Order Notification Start Date   | Order Notification End Date | Status | Service Component |
| NA  | NA                          | No     | NA                |
| This response reflects whether the individual or his/her unit has received early notification to report for active duty |                             |        |                   |

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Michael V. Sorrento, Director  
Department of Defense - Manpower Data Center  
400 Gigling Rd.  
Seaside, CA 93955

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 3901 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q35) via this URL: <https://scra.dmdc.osd.mil/scra/faq>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 3921(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

## More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

## Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

**WARNING:** This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.



## Status Report Pursuant to Servicemembers Civil Relief Act

SSN: XXX-XX-1670  
Birth Date:  
Last Name: HERNANDEZ ONEILL  
First Name: SAUDDY  
Middle Name: NOEMI  
Status As Of: Mar-10-2022  
Certificate ID: H88GKZJYVXMLWVX

| On Active Duty On Active Duty Status Date   |                      |        |                   |
|---|----------------------|--------|-------------------|
| Active Duty Start Date  | Active Duty End Date | Status | Service Component |
| NA  | NA                   | No     | NA                |
| This response reflects the individuals' active duty status based on the Active Duty Status Date |                      |        |                   |

| Left Active Duty Within 367 Days of Active Duty Status Date   |                      |        |                   |
|---|----------------------|--------|-------------------|
| Active Duty Start Date  | Active Duty End Date | Status | Service Component |
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|---|-----------------------------|--------|-------------------|
| Order Notification Start Date   | Order Notification End Date | Status | Service Component |
| NA  | NA                          | No     | NA                |
| This response reflects whether the individual or his/her unit has received early notification to report for active duty |                             |        |                   |

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Michael V. Sorrento, Director  
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400 Gigling Rd.  
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**WARNING:** This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.



|   |   |  |
|---|---|--|
| Label Matrix for local noticing<br>0104-3<br>Case 19-06674-EAG13<br>District of Puerto Rico<br>Old San Juan<br>Thu Mar 10 16:01:03 AST 2022 | BANCO POPULAR DE PUERTO RICO, SERVICER FOR F<br>C/O SARLAW LLC<br>BANCO POPULAR CENTER, SUITE 1022<br>209 MUNOZ RIVERA AVE<br>SAN JUAN, PR 00918-1000 | ISLAND PORTFOLIO SERVICES LLC AS SERVICER OF<br>PO BOX 361110<br>SAN JUAN, PR 00936-1110                               |
| POPULAR AUTO LLC<br>PO BOX 366818<br>SAN JUAN, PR 00936-6818  | US Bankruptcy Court District of P.R.<br>Jose V Toledo Fed Bldg & US Courthouse<br>300 Recinto Sur Street, Room 109<br>San Juan, PR 00901-1964         | BANCO POPULAR DE PUERTO RICO<br>SERVICER FOR FREDDIE MAC<br>PO BOX 362708(762)<br>SAN JUAN PR 00936-2708               |
| Banco Popular de Puerto Rico<br>Bankruptcy Department<br>PO Box 366818<br>San Juan, PR 00936-6818   | CICA Collection Agency, Inc<br>PO Box 12338<br>San Juan, PR 00914-0338  | Capital One Bank (USA), N.A.<br>by American InfoSource as agent<br>PO Box 71083<br>Charlotte, NC 28272-1083            |
| Citibank, N.A.<br>5800 S Corporate Pl<br>Sioux Falls, SD 57108-5027   | (p)PUERTO RICO TELEPHONE COMPANY DBA CLARO PR<br>PO BOX 360998<br>SAN JUAN PR 00936-0998  | DEL VALLE RODRIGUEZ LAW OFFICES PSC<br>LCDO JOSE RAFAEL DEL VALLE RODRIGUEZ<br>PO BOX 10590<br>SAN JUAN, PR 00922-0590 |
| Discover Bank<br>Discover Products Inc<br>PO Box 3025<br>New Albany, OH 43054-3025  | Discover Fin Svcs LLC<br>PO Box 15316<br>Wilmington, DE 19850-5316  | EASTERN AMERICA INSURANCE CO<br>PO BOX 9023862<br>SAN JUAN PR 00902-3862   |
| FIRST BANK<br>CONSUMER SERVICE CENTER<br>BANKRUPTCY DIVISION -CODE 248<br>PO BOX 9146, SAN JUAN PR 00908-0146                               | (p)INTERNAL REVENUE SERVICE<br>CENTRALIZED INSOLVENCY OPERATIONS<br>PO BOX 7346<br>PHILADELPHIA PA 19101-7346   | Island Finance<br>PO Box 71504<br>San Juan, PR 00936-8604  |
| Island Portfolio Services, LLC as servicer o<br>PO BOX 361110<br>San Juan PR 00936-1110   | (p)JEFFERSON CAPITAL SYSTEMS LLC<br>PO BOX 7999<br>SAINT CLOUD MN 56302-7999  | LVNV Funding, LLC<br>Resurgent Capital Services<br>PO Box 10587<br>Greenville, SC 29603-0587                           |
| MONEY EXPRESS<br>CONSUMER SERVICE CENTER<br>BANKRUPTCY DIVISION (CODE 248)<br>PO BOX 9146 SAN JUAN PR 00908-0146                            | Money Express<br>PO Box 9146<br>San Juan, PR 00908-0146   | Syncb/Car Care Pep Boy<br>C/o<br>PO Box 965036<br>Orlando, FL 32896-5036   |
| Syncb/Jc Penney Pr<br>PO Box 965007<br>Orlando, FL 32896-5007   | Syncb/Rooms to Go<br>C/o<br>PO Box 965036<br>Orlando, FL 32896-5036   | Syncb/Walmart<br>PO Box 30281<br>Salt Lake City, UT 84130-0281   |
| Syncb/tjx Cos<br>PO Box 965015<br>Orlando, FL 32896-5015  | Synchrony Bank<br>c/o of PRA Receivables Management, LLC<br>PO Box 41021<br>Norfolk, VA 23541-1021  | Thd/Cbna<br>PO Box 6497<br>Sioux Falls, SD 57117-6497  |

UNIVERSIDAD CENTRAL DE BAYAMON  
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BAYAMON, PR 00960-1725

JOAN LAUREANO COLON  
RR6 BOX 6936  
TOA ALTA, PR 00953-9320

JOSE RAMON CARRION MORALES  
PO BOX 9023884  
SAN JUAN, PR 00902-3884

MONSITA LECAROS ARIBAS  
OFFICE OF THE US TRUSTEE (UST)  
OCHOA BUILDING  
500 TANCA STREET SUITE 301  
SAN JUAN, PR 00901

ROBERTO FIGUEROA CARRASQUILLO  
PO BOX 186  
CAGUAS, PR 00726-0186

SAUDDY NOEMI HERNANDEZ ONEILL  
RR6 BOX 6936  
TOA ALTA, PR 00953-9320

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified  
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

Claro  
PO Box 360998  
San Juan, PR 00936-0998

Internal Revenue Service  
PO Box 21126  
Philadelphia, PA 19114-0326

Jefferson Capital Systems LLC  
Po Box 7999  
Saint Cloud Mn 56302-9617

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)Popular Auto  
PO Box 366818  
San Juan, PR 00936-6818

| End of Label Matrix |    |
|---------------------|----|
| Mailable recipients | 35 |
| Bypassed recipients | 1  |
| Total               | 36 |